

BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

Advisory Opinion No. 05-01-001AO

A public employee must not participate in a matter if he knows that any party to the matter is a business in which he is an officer, director, trustee, partner, or employee. In this case, an employee whose duties include finding appropriate housing for homeless families is also the president of a homeowners' association where some of those families are housed. The Commission concludes there is no conflict because the homeowners' association is not a party to the matter that the employee is participating in (the housing of homeless families).

The employee in this case works in the Department of Health and Human Services. His responsibilities include making recommendations on the best housing/service option for homeless families served by the Department. The employee is also the president of his local homeowners' association. Some of the homeless families he serves have been, and may continue to be, located in homes within the homeowners' association. Association members have voiced there concern about the presence of some of these families in their neighborhood.

The question is whether the association is a "party" to the matter that the employee is participating in (the housing of homeless families). While the association is certainly interested in the placement of homeless families within its neighborhood, the Commission finds that a more formal relationship is necessary before one can be considered a "party" to a matter. Although the term "party" is not defined in the ethics law, the term is used elsewhere in the ethics law to refer to a person who is either a party to a contract or a legal proceeding. For example, § 19A-11(a)(2)(E) refers to a conflict with "any business or individual that is a party to an existing contract." Section 19A-12(e) provides that "a public employee must not assist or represent a party for contingent compensation in a matter before or involving a County agency except in a judicial or quasi-judicial proceeding."

The Commission concludes that the association is not a "party" to the matter that the employee is participating in (the housing of homeless families). Accordingly, there is no conflict.

| | FOR THE COMMISSION: |
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| February 8, 2005 | Elista IC Kellar |
| Date | Elizabeth K. Kellar, Chair |